

**House File 2199 - Introduced**

HOUSE FILE 2199  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 507)

**A BILL FOR**

1 An Act relating to the criminal offenses of the illegal use of  
2 a scanning device or encoding machine and criminal mischief  
3 in the third degree, and providing penalties.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 715A.10, Code 2018, is amended to read  
2 as follows:

3 **715A.10 Illegal use of scanning device or ~~reencoder~~ encoding**  
4 **machine.**

5 1. A person commits a class "D" felony if the person does  
6 any of the following:

7 a. ~~Uses~~ Directly or indirectly uses a scanning device  
8 to access, read, obtain, memorize, or store, temporarily  
9 or permanently, information encoded on ~~the magnetic strip~~  
10 ~~or stripe of~~ a payment card without the permission of the  
11 authorized user of the payment card, ~~and with the intent to~~  
12 ~~defraud the authorized user,~~ the issuer of the authorized  
13 user's payment card, or a merchant.

14 b. ~~Uses a reencoder~~ Directly or indirectly uses an encoding  
15 machine to place information encoded on ~~the magnetic strip or~~  
16 ~~stripe of~~ a payment card onto ~~the magnetic strip or stripe of~~ a  
17 different payment card without the permission of the authorized  
18 user of the payment card from which the information is being  
19 ~~reencoded~~ was obtained, ~~and with the intent to defraud the~~  
20 ~~authorized user,~~ the issuer of the authorized user's payment  
21 card, or a merchant.

22 1A. A person commits an aggravated misdemeanor if the person  
23 possesses a scanning device with the intent to use such device  
24 to obtain information encoded on a payment card without the  
25 permission of the authorized user of the payment card, the  
26 issuer of the authorized user's payment card, or a merchant, or  
27 possesses a scanning device with knowledge that a person other  
28 than the authorized user, the issuer of the authorized user's  
29 payment card, or a merchant intends to use the scanning device  
30 to obtain information encoded on a payment card without the  
31 permission of the authorized user, the issuer of the authorized  
32 user's payment card, or a merchant.

33 2. A second or subsequent violation of **this section** is a  
34 class "C" felony.

35 3. As used in **this section**:

1 a. "Encoding machine" means an electronic device that is  
2 used to encode information onto a payment card.

3 ~~a.~~ b. "Merchant" means an owner or operator of a retail  
4 mercantile establishment or an agent, employee, lessee,  
5 consignee, officer, director, franchisee, or independent  
6 contractor of such owner or operator. A "merchant" also means  
7 includes an establishing financial institution referred to  
8 in section 527.5, a person who receives from an authorized  
9 user of a payment card, or someone the person believes to  
10 be an authorized user, a payment card or information from a  
11 payment card, or what the person believes to be a payment card  
12 or information from a payment card, as the instrument for  
13 obtaining, purchasing, or receiving goods, services, money, or  
14 anything else of value from the person.

15 ~~b.~~ c. "Payment card" means a credit card, charge card,  
16 debit card, access device as defined in section 527.2, or  
17 any other card that is issued to an authorized card user and  
18 that allows the user to obtain, purchase, or receive goods,  
19 services, money, or anything else of value from a merchant.

20 ~~c. "Reencoder" means an electronic device that places~~  
21 ~~encoded information from the magnetic strip or stripe of a~~  
22 ~~payment card onto the magnetic strip or stripe of a different~~  
23 ~~payment card.~~

24 d. "Scanning device" means a scanner, reader, wireless  
25 access device, radio frequency identification scanner, an  
26 electronic device that utilizes near field communications  
27 technology, or any other electronic device that is used to  
28 access, read, scan, obtain, memorize, or store, temporarily  
29 or permanently, information encoded on the magnetic strip or  
30 stripe of a payment card.

31 Sec. 2. Section 716.5, subsection 1, Code 2018, is amended  
32 by adding the following new paragraph:

33 NEW PARAGRAPH. f. The act is committed upon real or  
34 personal property that has the ability to process a payment  
35 card as defined in section 715A.10.

1

EXPLANATION

2

The inclusion of this explanation does not constitute agreement with  
the explanation's substance by the members of the general assembly.

3

4 This bill relates to the illegal use of a scanning device or  
5 encoding machine.

6 ILLEGAL USE OF SCANNING DEVICE OR ENCODING MACHINE. The bill  
7 replaces the term "reencoder" with the term "encoding machine".  
8 The bill defines "encoding machine" to mean an electronic  
9 device that is used to encode information to a payment card.

10 The bill also expands the definition of "merchant" to  
11 include an establishing financial institution referred to in  
12 Code section 524.5.

13 The bill modifies the definition of "payment card" to  
14 include an access device as defined in Code section 527.2.

15 The bill also modifies the term "scanning device" to include  
16 a wireless access device, a radio frequency identification  
17 scanner, an electronic device that utilizes near field  
18 communications technology, and any other electronic device used  
19 to access, read, scan, obtain, memorize, or store information  
20 encoded on a payment card.

21 A person commits a class "D" felony under the bill if the  
22 person directly or indirectly uses a scanning device to access,  
23 read, obtain, memorize, or store, temporarily or permanently,  
24 information encoded on a payment card without the permission  
25 of the authorized user, the issuer of the authorized user's  
26 payment card, or a merchant. In order to commit this offense  
27 currently, a person must use a scanning device to access,  
28 read, obtain, memorize, or store, temporarily or permanently,  
29 information encoded on the magnetic strip or stripe of a  
30 payment card without the permission of the authorized user of  
31 the payment card, and with the intent to defraud the authorized  
32 user, the issuer of the authorized user's payment card, or a  
33 merchant.

34 A person commits a class "D" felony under the bill if the  
35 person directly or indirectly uses an encoding machine to place

1 information encoded on a payment card onto a different payment  
2 card without the permission of the authorized user, the issuer  
3 of the authorized user's payment card, or a merchant. In order  
4 to commit this offense currently, a person must use a reencoder  
5 to place information encoded on the magnetic strip or stripe of  
6 a payment card onto the magnetic strip or stripe of a different  
7 card without the permission of the authorized user of the  
8 card from which the information is being reencoded, and with  
9 the intent to defraud the authorized user, the issuer of the  
10 authorized user's payment card, or a merchant.

11 A class "D" felony is punishable by confinement for no more  
12 than five years and a fine of at least \$750 but not more than  
13 \$7,500.

14 The bill creates a new criminal offense. Under the bill,  
15 a person shall not possess a scanning device with the intent  
16 to use such device to obtain information encoded on a payment  
17 card without permission of the authorized user, the issuer of  
18 the authorized user's payment card, or a merchant, or possess  
19 a scanning device with knowledge that a person other than the  
20 authorized user, the issuer of the authorized user's payment  
21 card, or a merchant intends to use the scanning device to  
22 obtain information encoded on a payment card without permission  
23 from the authorized user, the issuer of the authorized user's  
24 payment card, or a merchant. A person who violates this  
25 provision commits an aggravated misdemeanor. An aggravated  
26 misdemeanor is punishable by confinement for no more than two  
27 years and a fine of at least \$625 but not more than \$6,250.

28 CRIMINAL MISCHIEF IN THE THIRD DEGREE. If a person  
29 intentionally damages, defaces, alters, or destroys property  
30 upon real or personal property that has the ability to process  
31 a payment card as defined in Code section 715A.10 in the bill,  
32 with no right to do such an act, that person commits criminal  
33 mischief in the third degree. Criminal mischief in the third  
34 degree is an aggravated misdemeanor.